

REMARKS

In accordance with the foregoing, new claims 9-12 are presented. No new matter is presented in any of the foregoing and, accordingly, approval and entry of the new claims are respectfully requested.

Claims 1-12 are pending and under consideration.

An in-person interview with the Examiner is also respectfully requested.

BACKGROUND

An Office Action (Action 1) mailed March 12, 2004 rejected claims 1, 3, 5 and 7 under 35 U.S.C. §102(e) as anticipated by Ogasawara (U.S.P. 6, 327,576), and rejected claims 2, 4, 6 and 8 as being unpatentable under 35 U.S.C. §103 by Ogasawara in view of Dimaria (U.S.P. 6,148,091). An Amendment filed July 8, 2004, traversed the rejections and amended claim 1 for form only and claim 5.

A Final Office Action (Action 2) mailed October 4, 2004 rejected claims 1, 3, 5, and 7 under 35 U.S. C. §103 over Ogasawara in view of newly-cited art Button (U.S.P. 5,786,584), rejected claims 2, 4, 6, and 8 under 35 U.S. C. §103 over Ogasawara as modified by Button further in view of newly-cited art Waxelbaum et al. (U.S.P. 6,308,893). The Examiner indicated that that "Applicant's amendment necessitated the new (final) ground(s) of rejection."

In a Communication to the Examiner filed December 6, 2004, Applicants requested the finality of Action 2 be withdrawn since the only amendments made to claims 1-4 were directed to an amendment for form to the preamble of claim 1 to recite "(a) bar code reader. . . , the bar code reader comprising. . . ." (Emphasis added indicating amendment). A Response After Final Rejection (Response) traversing the rejections was filed January 4, 2005.

In Advisory Action 1, the Examiner indicated the arguments regarding the request for withdrawal of finality were not persuasive since prior to the amendment, the Examiner interpreted claim 1 as reciting "the system, and mainly, the host apparatus comprised a term expiration check unit. . . ." After the amendment of claim 1, the Examiner contended "it was then interpreted by the examiner that the bar code reader, not the host apparatus comprised the term expiration check unit." (Advisory Action 1 continuation sheet).

In block 7a, the Examiner indicated that a proposed amendment will not be entered and rejected claims 1-8. The Applicants' representative conducted a telephone discussion with the Examiner to question this entry. The Examiner indicated the checking of block 7a on Advisory Action 1 was in error, arguments presented in the Response After Final Rejection filed on January 4, 2005 were not yet examined, and another Advisory Action would be forthcoming. Applicants' representative also requested an adjustment to the period of reply required by

Advisory Action 1 since another Advisory Action was pending.

Advisory Action 2 indicated the Response filed on January 4, 2005 did not place the Application in condition for allowance and did not adjust the period for reply.

TRAVERSE OF SUBSTANTIVE REJECTIONS

Applicants respectfully traverse the rejections on the bases of the prior response and as follows.

REJECTION OF CLAIMS 1, 3, 5, AND 7 UNDER 35 U.S.C. §103 OVER OGASAWARA IN VIEW OF BUTTON

Independent claims 1 and 5 recite, respectively, a bar code reader having an arrangement to communicate with a host apparatus in a POS system, and a method, using claim 1 as an example, including "a read unit that reads a bar code attached to an article, and outputs bar code information corresponding to the read bar code; a term information acquisition unit that acquires term information included in the bar code information; a term expiration check unit that checks whether the term of the article has expired based on the term information; and a notification unit that notifies that the term of the article has expired upon determination by the term expiration check unit that the term of the article has expired."

Action 2 concedes that Ogasawara does not teach "the barcode reader itself contains the equipment to be able to utilize the term information acquisition unit, term expiration check unit, and notification unit in addition to a read unit that reads the barcode." (Action 2 at page 3). Nevertheless, the Examiner contends that it would have been obvious to modify Ogasawara to have "a self-standing barcode reading system with all information received at the local apparatus." (Action 2 at page 4).

In the Continuation Sheet attached to Advisory Action 2, the Examiner contends: there is indeed a reasonable chance of success to modify a conventional scanner as taught by Ogasawara . . . the database in the memory of the barcode scanner does not have to replace, but simply enhances the conventional host system by having a back-up data system.

As set forth in MPEP §2144. 04:

The mere fact that a worker in the art could rearrange the parts of the reference device . . . is not by itself sufficient to support a finding of obviousness. The prior art must provide a motivation . . . without the benefit of appellant's specification, to make the necessary changes in the reference device. *Ex parte Chicago Rawhide Mfg. Co.*, 223 USPQ 351, 353 (Bd. Pat. App. & Inter. 1984).

Applicants submit there is no showing of an incentive or motivation to modify Ogasawara with the teachings of Button in the prior art.

Conclusion

Since *prima facie* obviousness is not established, the rejection should be withdrawn and

claims 1, 3, 5, and 7 allowed.

REJECTION OF CLAIMS 2 AND 6 UNDER 35 U.S. C. §103 OVER OGASAWARA AS MODIFIED BY BUTTON FURTHER IN VIEW OF WAXELBAUM

Dependent claims 2 and 6 recite a bar code reader and a method, respectively, using claim 2 as an example, including "a timer unit that keeps record of present date, wherein the term expiration check unit checks whether the term of the article has expired based on a comparison of the present date with the term information, wherein the term information is set by giving consideration to time error."

Action 2 concedes that a combination of Ogasawara/Button does not teach a bar code reader having "a timer unit that keeps record of the present data." (Action 2 at page 5). Nevertheless, the Examiner rejects claims 2 and 6 under 35 U.S. C. §103 over Ogasawara as modified by Button further in view of Waxelbaum et al.

As set forth in MPEP §2144. 04, "(t)he prior art must provide a motivation . . . without the benefit of appellant's specification, to make the necessary changes in the reference device."

Applicants submit there is no showing of an incentive or motivation to modify Ogasawara. with the teachings of Button in view of Waxelbaum, in the prior art.

Conclusion

Since *prima facie* obviousness is not established, the rejection should be withdrawn and claims 2 and 6 allowed.

REJECTION OF CLAIMS 4 AND 8 UNDER 35 U.S. C. §103 OVER OGASAWARA AS MODIFIED BY BUTTON FURTHER IN VIEW OF WAXELBAUM

Dependent claim 4 recites a bar code reader including "a date setting unit that sets a date of the timer unit using a date setting bar code." Dependent claim 8 recites a method "setting the present date in the timer unit using a date setting bar code."

The Action concedes that the combination of Ogasawara/Button does not teach these features but rather a "date setting bar code is employed for expiration date." (Action 2 at page 6). Nevertheless, the Examiner rejects claims 4 and 8 under 35 U.S.C. §103 over Ogasawara as modified by Button further in view of Waxelbaum.

As set forth in MPEP §2144. 04, "(t)he prior art must provide a motivation . . . without the benefit of appellant's specification, to make the necessary changes in the reference device."

Applicants submit there is no showing of an incentive or motivation to modify Ogasawara. with the teachings of Button in view of Waxelbaum, in the prior art.

Conclusion

Since *prima facie* obviousness is not established, the rejection should be withdrawn and

claims 2 and 6 allowed.

NEW CLAIMS

New claims 9-12 recite features of the present invention in an alternate fashion.

New claims 9-10 recite a bar code reader for a POS system, the bar code reader including "a term expiration check unit that checks whether a term of an article has expired based on a comparison with term information; and a notification unit that notifies a remote apparatus that the term of the article has expired."

New claims 11-12 recite a bar code read control method applied to a bar code reader communicating with a remote apparatus in a POS system, the method including checking whether a term of an article has expired based on a comparison with term information, the checking being performed by the bar code reader; and notifying the remote apparatus that the term of the article has expired.

These, and other, features of new claims 9-12 patentably distinguish over the cited art, and they are submitted to be allowable for the recitations therein.

CONCLUSION

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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